IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE BILAL NAZKI**

**and**
**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 14447 of 2004**

Between:

Union of India, Ministry of Defence MES,
Rep by its Garrison Engineer (I) (P) No. 2, Visakhapatnam.

**..... PETITIONER**

AND

1 The Additional Commissioner, (Commercial Taxes) Legal, Andhra Pradesh, Hyderabad.
2 The Commercial Tax Officer, China Waltair, Visakhapatnam.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari and call for the records pertaining to proceedings in CCT's Ref. LV(3)/957/2004 dt. 12-04-2004 on the file of the Addl. Commissioner (CT) Legal, Hyderabad and consequently quash the same.

**Counsel for the Petitioner:MR.SRINIVAS DAMMALAPATI**

**Counsel for the Respondents: GP FOR COMMERCIAL TAXES**

**The Court at the stage of admission made the following :**

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**ORDER: (per Sri Bilal Nazki, J)**

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner, within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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**(BILAL NAZKI, J)**

**DATED:01-11-2004**

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**(S.ANANDA REDDY, J)**

**GJ**

To

1 The Additional Commissioner, (Commercial Taxes) Legal, Andhra Pradesh, Hyderabad.
2 The Commercial Tax Officer, China Waltair, Visakhapatnam.

3. Two C.Cs. to the Government Pleader for Taxes, High Court of A.P., Hyderabad.(OUT)

4. Two C.D. copies.